

AMENDED IN SENATE MARCH 1, 2001

**SENATE BILL**

**No. 19**

**Introduced by ~~Senators Escutia, Alpert, Kuehl, and Ortiz~~  
*Senator Escutia***

***(Principal coauthor: Senator Alpert)***

***(Coauthors: Senators Kuehl, Ortiz, and Torlakson)***

***(Coauthors: Assembly Members Alquist, Aroner, Cedillo, Firebaugh,  
Keeley, and Strom-Martin)***

December 4, 2000

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~~An act to amend Sections 33352 and 49533 of, to add Article 2.5 (commencing with Section 49430) to Chapter 9 of Part 27 of, and to add Section 49533.5 to, the Education Code, and to amend Section 7102 of the Revenue and Taxation Code, relating to pupil health, and making an appropriation therefor. An act to add Article 2.5 (commencing with Section 49430) to Chapter 9 of Part 27 of the Education Code, relating to pupil health.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 19, as amended, Escutia. Pupil health.

~~(1) Existing law requires the State Department of Education to exercise general supervision over the courses of physical education in elementary and secondary schools of the state; advise school officials, school boards, and teachers in matters of physical education; and investigate the work in physical education in the public schools.~~

~~This bill would require the State Department of Education to create a position to oversee physical education and activities in schools and enforce relevant laws and regulations.~~

~~(2) Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils.~~

~~This bill would require every school to provide a safe place and method for any pupil with diabetes to test his or her blood glucose level and receive insulin injections and to ensure that, in the absence of school nurses, there are staff members competent in testing blood glucose level, recognizing and treating hypoglycemia and hyperglycemia, and administering insulin and glucagon injections.~~

~~The bill would immunize school personnel who are not medically trained and administer assistance to a pupil in life threatening circumstances from liability for that administering assistance.~~

The ~~This~~ bill would require every school to publicize a summary of nutrition and physical activity laws, regulations, and school district policies and would require the State Department of Education and school districts to develop the summary.

~~(3)~~

(2) Existing law requires that 50% of the items, other than foods reimbursed under federal law, offered for sale each schoolday at any schoolsite by any entity or organization during regular school hours be selected from a prescribed list of foods.

The bill would require the sale of all foods on school grounds to be approved by the school food service program.

The bill would restrict the sale of candy and soft drinks. The bill would require ~~food service directors in choosing foods to use specified guidelines~~ *all foods sold or served during school hours outside of the federal school meal program to meet specified requirements* relating to the fat, ~~cholesterol, sodium, and sugar, and fiber~~ content of foods.

The bill would require drinking water and cups to be offered with meals for pupil consumption at no charge to pupils ~~and would require all drinking fountains on school campuses to be free of health hazards and in working order.~~

~~(4)~~

(3) Existing law requires the Superintendent of Public Instruction to reimburse school districts for certain costs associated with free and reduced-price meals.

This bill would require that reimbursement to be increased to 26¢ per meal.

~~(5)~~

(4) Existing law provides for various advisory committees to be formed at the school district level.

This bill would authorize a school district to convene a Child Nutrition and Physical Activity Advisory Committee that would



develop and recommend to the governing board of the school for its adoption a school district policy on nutrition and physical activity. The committee would include food service directors, parents, pupils, ~~dietitian~~ *dietitians*, doctors, nurses, and interested community organizations. In developing the policy, the committee would be required to hold at least one public hearing. The bill would require the State Department of Education to provide a \$10,000 grant to a school district that develops and adopts a policy by December 31, 2002.

~~(6) Existing law establishes a Child Nutrition Advisory Council, to recommend plans and guidelines for school and child care meal service and nutrition education programs. Existing law requires the State Board of Education to appoint the members of the council.~~

~~This bill would change the name of the council to the Council on Nutrition and Physical Activity for Children and Adolescents. The bill would require the council to include representatives from the State Department of Health Services, the State Department of Mental Health, and the Department of Food and Agriculture and to invite the participation of, and seek consultation with, a broad selection of organizations and individuals concerned with nutrition, physical activity, and children's health. The bill would require the council to perform additional duties.~~

~~(7)~~

~~(5) By imposing new requirements on school districts, the bill would impose state-mandated local programs.~~

~~(8)~~

~~(6) This bill would require the Superintendent of Public Instruction to supervise the implementation of certain provisions enacted by the bill by monitoring schools every 2 years and to investigate acts of alleged noncompliance. If the Superintendent of Public Instruction finds that a school district or county superintendent of schools fails to comply with those provisions, the superintendent would be required to certify the noncompliance to the Attorney General who would be required to investigate, if necessary, to document the noncompliance and seek injunctive relief to secure compliance when requested by the superintendent.~~

~~(9) This bill would create the Pupil Health and Achievement Trust Fund and would require that all revenues, less refunds, derived from the state sales tax on the retail sales of carbonated beverages be transferred quarterly, commencing with the revenues due October 1, 2001, to that fund. The bill would appropriate an unspecified amount from the Pupil~~

~~Health and Achievement Trust Fund to the State Department of Education according to the following schedule:~~

~~(a) An unspecified amount for purposes of implementing provisions relating to services to diabetic pupils.~~

~~(b) An unspecified amount for purposes of increasing the amount of reimbursements school districts receive for providing free and reduced-price meals.~~

~~(c) An unspecified amount for purposes of repairing drinking fountains and bathrooms on school grounds.~~

~~(d) An unspecified amount, of which an unspecified amount would be for allocation to school districts, for purposes of developing and publicizing a summary of nutrition and physical activity laws, regulations, and school district policies and for establishing a toll-free telephone number for use in reporting noncompliance with certain provisions of law.~~

~~(e) The sum of \$2,000,000 for purposes of the department providing physical education programs in the public schools and for support of the Nutrition Education and Training Section within the Nutrition Services Division of the department.~~

~~(f) The sum of \$100,000 for purposes of creating a position within the department to oversee physical education and activities in the public schools and to enforce relevant laws and regulations.~~

~~(g) The sum of \$10,000,000 for grants to be awarded to school districts that develop and adopt a policy on nutrition and physical activity by December 31, 2001.~~

~~(h) The sum of \$50,000,000 for allocation to the Council on Nutrition and Physical Activity for Children and Adolescents for purposes of designing and implementing a financial incentive grant program to help and encourage school to implement their policies and goals on nutrition and physical activity.~~

~~(i) The sum of \$3,000,000 for purposes of enforcing certain provisions enacted by the bill.~~

~~(10)~~

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote:  $\frac{2}{3}$  majority. Appropriation: yes no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares as  
2 follows:  
3 (1) ~~Type 2 diabetes, which is significantly influenced by diet~~  
4 ~~and exercise, is rising rapidly in children. In 1997, 16,000 people~~  
5 ~~in California under the age of 18 years were diagnosed with~~  
6 ~~diabetes. A vast majority of diabetes in children has been Type 1.~~  
7 ~~However, in 1992, only 2 to 4 percent of all childhood diabetes~~  
8 ~~eases were Type 2; from September 1999 to March 2000,~~  
9 ~~Children's Hospital of Los Angeles received 94 new diabetes~~  
10 ~~patients, of which 24 (25 percent) were Type 2.~~  
11 (2) ~~Diabetes is expected to double in prevalence in California~~  
12 ~~in the next 20 years. Two million Californians have diabetes. The~~  
13 ~~prevalence of diabetes is at least 50 percent higher among~~  
14 ~~Hispanics and African Americans than Whites in every age group~~  
15 ~~tracked. Diabetes is the leading cause of adult onset blindness,~~  
16 ~~kidney failure, and amputation of the lower extremities and is a~~  
17 ~~significant contributor to heart disease and stroke. Between 1994~~  
18 ~~and 1997, an average of 21,025 deaths annually were attributable~~  
19 ~~directly or indirectly to diabetes in California~~  
20 (3) ~~Diabetes costs California over \$12 billion annually only for~~  
21 ~~direct costs. The state provides no funding to California's Diabetes~~  
22 ~~Control Program.~~  
23 (4) ~~A 1998 study found that 40 percent of children in the Los~~  
24 ~~Angeles Unified School District in grades 2 to 5, inclusive, were~~  
25 ~~obese. The percentage of overweight children and youth in the~~  
26 ~~United States has doubled in the past 30 years. Twenty percent of~~  
27 ~~all children and adolescents are overweight or obese. Overweight~~  
28 ~~and obese children are at higher risk for long-term health problems~~  
29 ~~including coronary artery disease, stroke, hypertension,~~  
30 ~~cardiovascular disease, high blood pressure, gallbladder disease,~~

1 ~~Type 2 diabetes, asthma, and certain cancers. Eighty percent of~~  
2 ~~obese adolescents remain obese as adults.~~

3 ~~(5) The state's support of school food services is woefully~~  
4 ~~inadequate. The State Department of Education monitors schools~~  
5 ~~only once every five years and lacks the resources to provide any~~  
6 ~~technical assistance. The last time the state increased the state meal~~  
7 ~~subsidy, beyond a cost of living adjustment, was in 1981, leaving~~  
8 ~~California ranked 41st in the nation in school meal reimbursement~~  
9 ~~rates.~~

10 ~~(6) In order to generate revenue, many schools sell or allow~~  
11 ~~vendors to sell fast food on campus. Ninety-five percent of school~~  
12 ~~districts that responded to a recent survey sell fast foods on~~  
13 ~~campus. The most common foods include pizza, cookies, chips,~~  
14 ~~and burritos.~~

15 ~~(b) It is the intent of the Legislature that revenues in the Pupil~~  
16 ~~Health and Achievement Fund created by this act be appropriated~~  
17 ~~only for purposes of programs and activities in the public schools~~  
18 ~~that promote healthy eating, physical activity, school nurses, or~~  
19 ~~any purpose consistent with those programs and activities.~~

20 ~~SEC. 2.—Section 33352 of the Education Code is amended to~~  
21 ~~read:~~

22 ~~33352.—(a) The State Department of Education shall exercise~~  
23 ~~general supervision over the courses of physical education in~~  
24 ~~elementary and secondary schools of the state; advise school~~  
25 ~~officials, school boards, and teachers in matters of physical~~  
26 ~~education; and investigate the work in physical education in the~~  
27 ~~public schools.~~

28 ~~(b) The State Department of Education shall create a position~~  
29 ~~to oversee physical education and activities in schools and enforce~~  
30 ~~relevant laws and regulations.~~

31 ~~(c) This section shall remain in effect only until January 1,~~  
32 ~~2002, and as of that date is repealed, unless a later enacted statute,~~  
33 ~~that is enacted before January 1, 2002, deletes or extends that date.~~

34 ~~SEC. 3.—~~

35 *(a) Childhood obesity has reached epidemic levels in*  
36 *California and throughout the nation. Recent studies have shown*  
37 *that more than 30 percent of California youth are overweight and*  
38 *that adolescent obesity has doubled over the past two decades. In*  
39 *some California school districts, as many as 50 percent of pupils*  
40 *are overweight.*

(b) Overweight and obese children are at higher risk for long-term health problems including cardiovascular disease, stroke, hypertension, high blood pressure, gallbladder disease, Type 2 diabetes, asthma, and certain cancers. The lives of overweight youth are often also affected by discrimination, psychological stress, poor body image, and low self-esteem. Eighty percent of obese adolescents remain obese as adults.

(c) Two-thirds of all deaths in California result from four chronic diseases: heart disease, cancer, stroke, and diabetes. Health experts agree that one of the most effective ways to prevent these chronic diseases is to establish policies and programs that encourage children and adolescents to develop healthy eating and exercise habits they can maintain throughout their lives.

(d) A child who is physically healthy is more likely to be academically motivated, alert, and successful. Results from the 1999 Physical Fitness test showed that only 20 percent of pupils in grades 5, 7, and 9 met the requirement to be considered fit.

(e) Healthy eating also plays an important role in learning and cognitive development. Poor diet has been found to adversely influence the ability to learn and to decrease motivation and attentiveness.

(f) The school environment plays an influential role in the foods children eat nearly every day. While the United States Department of Agriculture (USDA) regulates the nutrient content of meals sold under its reimbursable meal program, similar standards do not exist for “competitive foods” that are sold outside the USDA meal programs. Competitive foods are often very high in added sugar, sodium, and fat.

(g) The state’s support of school food services is inadequate. The State Department of Education monitors schools only once every five years and lacks the resources to provide any technical assistance. The last time the state increased the state meal subsidy, beyond a cost-of-living adjustment, was in 1981, leaving California ranked 41st in the nation in school meal reimbursement rates. In order to generate revenue, many schools sell or allow vendors to sell competitive foods on campus.

(h) In a survey conducted in 2000, 95 percent of responding California school districts reported that they sell fast foods, the most common of which are sodas, pizza, cookies, chips, and burritos, contributing to the fact that carbonated drinks are the

1 *single biggest source of refined sugars in the American diet,*  
2 *approximately 70 percent of children in the United States who are*  
3 *2 to 11 years of age exceeded current dietary recommendations for*  
4 *intakes of total and saturated fat, and only 21 percent of California*  
5 *children meet the goal of eating five servings of fruits and*  
6 *vegetables per day.*

7 SEC. 2. Article 2.5 (commencing with Section 49430) is  
8 added to Chapter 9 of Part 27 of the Education Code, to read:

9  
10 Article 2.5. The Pupil ~~Health~~ *Nutrition, Health, and*  
11 *Achievement Act of 2001*  
12

13 49430. ~~(a) Every school shall provide a safe place and~~  
14 ~~method for any pupil with diabetes to test his or her blood glucose~~  
15 ~~level and receive insulin injections. This place shall be either in the~~  
16 ~~classroom or very close to a classroom.~~

17 ~~(b) Every school district shall ensure that, in the absence of~~  
18 ~~school nurses, there are staff members competent in testing blood~~  
19 ~~glucose level, recognizing and treating hypoglycemia and~~  
20 ~~hyperglycemia, and administering insulin and glucagon~~  
21 ~~injections.~~

22 ~~49431. School personnel who are not medically trained and~~  
23 ~~administer assistance to a pupil in life threatening circumstances~~  
24 ~~are immune from liability for that administering assistance.~~

25 ~~49432.~~ (a) The reimbursement a school receives for free and  
26 reduced-price meals shall be increased to twenty-six cents (\$0.26).

27 (b) A school shall receive a reimbursement of thirteen cents  
28 (\$0.13) for meals sold at full price.

29 (c) To qualify for the increased reimbursement for free and  
30 reduced-price meals and for the reimbursement for meals sold at  
31 full price, a school shall follow the United States Department of  
32 Agriculture's Enhanced Food Based Meal Pattern, the United  
33 States Department of Agriculture's Nutrient Standard Meal  
34 Planning, or California's SHAPE Menu Patterns *and shall comply*  
35 *with Section 49431.*

36 ~~49433.~~

37 49431. (a) The sale of all foods on school grounds shall be  
38 approved by the school food service program. ~~All revenue accrued~~  
39 ~~by schools from foods sold on school campuses shall be spent only~~  
40 ~~on school food services.~~

(b) Candy or soft drinks may not be sold or served at elementary or middle schools. Candy and soft drinks may be sold at high schools only after the end of the last lunch period. Foods containing 40 percent or more added sugar or sweeteners by weight may not be sold or served during the schoolday at any school. Any juice or juice product sold or served shall contain a minimum of 50 percent real juice. A school or school district that has a contract with a food or beverage company may complete the terms of that contract. A contract may not be renewed if it violates state law or school district nutrition and physical activity policies.

(c) All foods sold or served during school hours outside of the federal school meal program shall ~~have~~ *do all of the following*:

(1) *Have* less than 10 percent total calories from saturated fat (1 gram saturated fat per 100 calories). ~~Food service directors also shall use the following guidelines in choosing foods:~~

~~(1) A food shall contain~~

(2) *Contain* less than 30 percent of its total calories from fat (3 grams fat per 100 calories).

~~(2) A food shall contain 15 milligrams or less of cholesterol per 100 calories.~~

~~(3) A food shall contain less than 140 milligrams sodium per serving (50 gram serving size).~~

~~(4) A food shall contain~~

(3) *Contain* less than 2 grams of added sugar per serving (50 gram serving size).

~~(5) A food shall contain more than 1 gram of dietary fiber per serving (50 gram serving size).~~

(d) Drinking water and cups shall be offered with meals for pupil consumption at no charge to pupils. ~~All drinking fountains on school campuses shall be free of health hazards and in working order.~~

~~49434.~~

49432. Every school shall publicize a summary of nutrition and physical activity laws, regulations, and school district policies by posting the summary in public view within all school cafeterias and distributing it to parents annually. The State Department of Education and school districts shall develop the summary. The department shall develop the portion on state law and regulations. Each school district shall develop the part of the summary on local policies. ~~The department shall establish a toll-free telephone~~

~~number by which the public may call the department to request that schools be brought into compliance with laws or regulations, including the condition of facilities.~~

~~49435.~~

49433. (a) A school district may convene a Child Nutrition and Physical Activity Advisory Committee that shall develop and recommend to the governing board of the school for its adoption a school district policy on nutrition and physical activity. The committee shall include food service directors, parents, pupils, dietitians, health care professionals, and interested community organizations. In developing the policy, the committee shall hold at least one public hearing.

(b) The policy shall address the following issues and goals:

(1) Ensuring that no pupil is hungry and that a healthy and nutritious breakfast, lunch, and after-school snack is available to every pupil at every school so that pupils are prepared to learn to their fullest potential.

(2) Improving nutritional standards, *food quality*, and choices.

(3) Increasing availability of fresh fruits and vegetables and other foods high in ~~fiber~~ *minerals, calcium, zinc, magnesium, Vitamins A, C, and E, and fiber, and low in sodium, fat, sugar, cholesterol, and trans fatty acids* in all school related food sites.

(4) Ensuring that the food served shall be fresh, to the maximum extent possible, via partnerships with farms, school gardens, and local farmers markets.

(5) Encouraging eligible pupils to participate in the school lunch program by removing barriers to the program.

(6) Integrating nutrition and physical activity into the overall curriculum.

(7) Ensuring regular professional development for food services staff.

(8) Ensuring pupils a minimum of 30 minutes to eat lunch and 20 minutes to eat breakfast.

(9) Ensuring pupils engage in healthful levels of vigorous physical activity.

(10) Ensuring pupils engage in meaningful, effective nutrition education.

(11) Improving the quality of physical education curricula and increasing training of physical education teachers.

(12) Enforcing existing physical education requirements.

(13) Altering the economic structures in place to encourage healthy eating by pupils and reduce dependency on generating profits for the school from the sale of unhealthy foods.

(14) Reducing marketing and advertising of commercial brand food products on school campuses.

(15) Developing a financing plan to implement the policy relying on state and federal funds, private sector partnerships, and other resources.

(c) A school district that develops and adopts a policy by December 31, 2002, shall receive a ten-thousand-dollar (\$10,000) grant from the State Department of Education, subject to an appropriation being made for that purpose.

~~49436.~~

49434. The Superintendent of Public Instruction shall supervise the implementation of this article and shall investigate acts of alleged noncompliance. If the Superintendent of Public Instruction finds that a school district or county superintendent of schools has failed to comply with the provisions of this article, the Superintendent of Public Instruction shall certify this noncompliance to the Attorney General. The Attorney General shall investigate, if necessary, to document the noncompliance. The Attorney General shall seek injunctive relief to secure compliance with this article when requested by the Superintendent of Public Instruction. The Superintendent of Public Instruction shall ensure the implementation and enforcement of all of the provisions in this article by monitoring schools every two years.

~~SEC. 4. Section 49533 of the Education Code is amended to read:~~

~~49533. (a) A Council on Nutrition and Physical Activity for Children and Adolescents composed of 13 members, shall be appointed by January 1, 1975, to recommend plans and guidelines for school and child care meal service and nutrition education programs. The members of the council shall be appointed by the State Board of Education and shall include one member of the State Department of Education, one school administrator, one school board member, one school food service director, one school food service supervisor or manager, one classroom teacher, one curriculum coordinator, one nutrition education specialist, one lay person, one child care food program sponsor, one secondary high school student, one representative from a recognized~~

~~parent-teacher organization, and a qualified consultant specializing in nutrition, education, child care, or health and welfare.~~

~~(b) In addition to the members appointed by the State Board of Education, the council shall include representatives from the State Department of Health Services, the State Department of Mental Health, and the Department of Food and Agriculture.~~

~~(c) The members shall serve for a term of three years, except the student representative, who shall serve a one-year term. Council members shall serve without pay but shall be reimbursed for authorized travel costs according to established State Department of Education procedures.~~

~~(d) The council shall invite the participation of, and seek consultation with, a broad selection of organizations and individuals concerned with nutrition, physical activity, and children's health.~~

~~SEC. 5. Section 49533.5 is added to the Education Code, to read:~~

~~49533.5. (a) In addition to recommending, pursuant to Section 49533, plans and guidelines for school and child care meal service and nutrition education programs, the Council on Nutrition and Physical Activity for Children and Adolescents shall perform all of the following duties:~~

~~(1) Research and report to the Legislature on the status of childhood nutritional and physical activity needs, practices and related health conditions in California.~~

~~(2) Review current laws, regulations, and programs that affect nutrition and physical activity among children and adolescents in the state and how these laws can be enforced.~~

~~(3) Make recommendations to the Legislature on comprehensive reforms that should be made to meet the nutrition and physical activity needs of California's children and adolescents and thereby reduce the prevalence of related health and social conditions and increase attendance and academic performance.~~

~~(4) Advise the State Department of Education on the design and implementation of a financial incentive grant program to help and encourage schools to implement their policies and meet the goals described in subdivision (b) of Section 49435.~~

~~(b) The council shall continue to report to the State Board of Education. The Senate Health and Human Services Committee, the Senate Education Committee, the Assembly Health Committee, and the Assembly Education Committee shall review the council's reports.~~

~~SEC. 6. Section 7102 of the Revenue and Taxation Code is amended to read:~~

~~7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, credits or refunds pursuant to Section 60202, and refunds pursuant to Section 1793.25 of the Civil Code, or be transferred in the following manner:~~

~~(a) (1) All revenues, less refunds, derived under this part at the  $4\frac{3}{4}$ -percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.~~

~~(2) All revenues, less refunds, derived under this part at the  $4\frac{3}{4}$ -percent rate, resulting from increasing after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.~~

~~(3) All revenues, less refunds, derived under this part at the  $4\frac{3}{4}$ -percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)) and the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001)), shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.~~

~~(4) All revenues, less refunds, derived under this part from a rate of more than  $4\frac{3}{4}$  percent pursuant to Sections 6051.1 and 6201.1 for the period December 1, 1989, to June 5, 1990, inclusive, shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.~~

~~(5) All revenues, less refunds, derived under this part from a rate of more than  $4\frac{3}{4}$  percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of tangible personal property other than fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.~~

~~(6) All revenues, less refunds, derived under this part from a rate of more than  $4\frac{3}{4}$  percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.~~

~~(7) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be transferred to the Sales Tax Account of the Local Revenue Fund for allocation to cities and counties as prescribed by statute.~~

~~(8) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.6 and 6201.6 shall be transferred to the Interim Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.~~

~~(9) All revenues, less refunds, derived from the taxes imposed pursuant to Section 35 of Article XIII of the California Constitution shall be transferred to the Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.~~

~~(10) An amount equal to all revenues, less refunds, derived under this part at a  $4\frac{3}{4}$  percent rate for the period between January~~

~~1 1, 1994, and July 1, 1994, from the increase in sales and use tax  
2 revenue attributable to the increase in the rate of the federal motor  
3 vehicle fuel tax between January 1, 1993, and the rate in effect on  
4 January 1, 1994, shall be estimated by the State Board of  
5 Equalization, with the concurrence of the Department of Finance,  
6 and an amount equal to that amount, but not exceeding seven  
7 million five hundred thousand dollars (\$7,500,000) shall be  
8 transferred from the Retail Sales Tax Fund to the Small Business  
9 Expansion Fund created by Article 5 (commencing with Section  
10 14030) of Chapter 1 of Part 5 of Division 3 of Title 1 of the  
11 Corporations Code.~~

~~12 (11) All revenues, less refunds, derived under this part from  
13 retail sales of carbonated beverages shall be transferred quarterly,  
14 commencing with the revenues due October 1, 2001, to the Pupil  
15 Health and Achievement Trust Fund, which is hereby created.~~

~~16 (b) The balance shall be transferred to the General Fund.~~

~~17 (c) The estimates required by subdivision (a) shall be based on  
18 taxable transactions occurring during a calendar year, and the  
19 transfers required by subdivision (a) shall be made during the  
20 fiscal year that commences during that same calendar year.  
21 Transfers required by paragraphs (1), (2), and (3) of subdivision  
22 (a) shall be made quarterly.~~

~~23 (d) Notwithstanding the designation of the Transportation  
24 Planning and Development Account as a trust fund pursuant to  
25 subdivision (a), the Controller may use the Transportation  
26 Planning and Development Account for loans to the General Fund  
27 as provided in Sections 16310 and 16381 of the Government Code.  
28 The loans shall be repaid with interest from the General Fund at  
29 the Pooled Money Investment Account rate.~~

~~30 (e) The Legislature may amend this section, by statute passed  
31 in each house of the Legislature by rolleall vote entered in the  
32 journal, two-thirds of the membership concurring, if the statute is  
33 consistent with, and furthers the purposes of this section.~~

~~34 SEC. 7. The sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) is hereby  
35 appropriated from the Pupil Health and Achievement Trust Fund  
36 created pursuant to Section 7102 of the Revenue and Taxation  
37 Code to the State Department of Education according to the  
38 following schedule:~~

1     ~~(a) The sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) for purposes of~~  
2     ~~implementing Section 49430 of the Education Code relating to~~  
3     ~~diabetic pupils.~~

4     ~~(b) The sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) for purposes of increasing~~  
5     ~~the amount of reimbursements school districts receive for~~  
6     ~~providing free and reduced-price meals pursuant to Section 49432~~  
7     ~~of the Education Code.~~

8     ~~(c) The sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) for purposes of repairing~~  
9     ~~drinking fountains and bathrooms on school grounds as required~~  
10    ~~by subdivision (f) of Section 49433 of the Education Code.~~

11    ~~(d) The sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) for purposes of~~  
12    ~~implementing Section 49434 of the Education Code of which \_\_\_\_\_~~  
13    ~~dollars (\$\_\_\_\_\_) shall be allocated to school districts.~~

14    ~~(e) The sum of two million dollars (\$2,000,000) for purposes~~  
15    ~~of the department providing physical education programs in the~~  
16    ~~public schools and for support of the Nutrition Education and~~  
17    ~~Training Section within the Nutrition Services Division of the~~  
18    ~~department.~~

19    ~~(f) The sum of one hundred thousand dollars (\$100,000) for~~  
20    ~~purposes of creating a position within the department to oversee~~  
21    ~~physical education and activities in the public schools and to~~  
22    ~~enforce relevant laws and regulations pursuant to Section 33352~~  
23    ~~of the Education Code.~~

24    ~~(g) The sum of ten million dollars (\$10,000,000) for allocation~~  
25    ~~to school districts pursuant to Section 49435 of the Education~~  
26    ~~Code.~~

27    ~~(h) The sum of fifty million dollars (\$50,000,000) for~~  
28    ~~allocation to the Council on Nutrition and Physical Activity for~~  
29    ~~Children and Adolescents for purposes of implementing~~  
30    ~~paragraph (5) of subdivision (a) of Section 49533.5 of the~~  
31    ~~Education Code.~~

32    ~~(i) The sum of three million dollars (\$3,000,000) for purposes~~  
33    ~~of enforcing the provisions of Article 2.5 (commencing with~~  
34    ~~Section 49430) of Chapter 9 of Part 27 of the Education Code as~~  
35    ~~required pursuant to Section 49436.~~

36    ~~SEC. 8.—~~

37    ~~49435. The State Department of Education, with advice from~~  
38    ~~the Child Nutrition Advisory Council, shall design and implement~~  
39    ~~a financial incentive grant program to help and encourage schools~~

1 *to implement their policies and meet the goals described in*  
2 *subdivision (b) of Section 49433.*

3 *SEC. 3.* Notwithstanding Section 17610 of the Government  
4 Code, if the Commission on State Mandates determines that this  
5 act contains costs mandated by the state, reimbursement to local  
6 agencies and school districts for those costs shall be made pursuant  
7 to Part 7 (commencing with Section 17500) of Division 4 of Title  
8 2 of the Government Code. If the statewide cost of the claim for  
9 reimbursement does not exceed one million dollars (\$1,000,000),  
10 reimbursement shall be made from the State Mandates Claims  
11 Fund.

